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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,457	11/13/2003	Anita Wongosari	J-3568A	9312
28165	7590	02/23/2006	EXAMINER	
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			BARNEY, SETH E	
			ART UNIT	PAPER NUMBER
			3752	
DATE MAILED: 02/23/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/712,457

Applicant(s)

WONGOSARI ET AL.

Examiner

Seth Barney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 August 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Drawings*

1. The new drawing filed August 8, 2005 presents new matter and has not been entered. The shape shown was not previously set forth in the specification. See for example the curve sides and flat top. Moreover it is unclear how this figure meets the terms of the equations set forth in the specification and the claims. The drawing will not be entered and the drawing objections set forth in the previous office action have been maintained.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the gel itself must be shown or the feature(s) canceled from the claim(s). Examiner notes that the cover hides the shape of the gel in Figure 1. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application

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must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The current specification continues to lack adequate disclosure such that one having ordinary skill in the art could make and/or use the invention. The specification merely states that an open gel formed in such a way as to meet the limits of the equation would have a constant release rate of active volatiles. The specification is absent of any distinct Figure showing the invention and there is no disclosure as to what materials the gel is made from or what the gel looks like. The Examiner questions how a potential infringer would know he or she is infringing on this invention without an adequate drawing of the invention. Furthermore, the Examiner questions whether the release rate

is constant per square inch of gel or constant for the device on the whole such that the release rate is identical from the moment of release until complete evaporation.

5. Claims 1-3 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The components and shape of the gel are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Page 7 of the arguments filed August 8, 2005 states, "...it should be noted that the preferred designs of the present invention are elongated as distinguished from circular in cross section, and further preferably taper vertically. When the length and width of the gel shrink during usage, much less side surface area is therefore lost than in a circular cross section gel. Further, since the smallest tapered portion (at the top) is lost first during use, and since that loss removes less side surface area, the result is a more consistent release rate." This statement demonstrates that the specific shape of the gel is crucial for the operation.

### ***Response to Arguments***

6. As abovementioned the arguments filed August 8, 2005 in regards to the new drawing are not persuasive. Applicant argues that Figure 2 is a form of the gel itself. Figure 2 seems to present an empty plane having an x, y, and z-axis. An empty plane does not adequately disclose the invention.

7. As abovementioned the arguments filed August 8, 2005 in regards to the enablement rejections are not persuasive. Applicant argues that projection dimensions have been provided. The Examiner notes that these numbers merely present a ratio of

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one dimension to another when inserted into the provided equation. They do not result in definite product of any particular shape or composition. As abovementioned the arguments filed support the Examiners contentions that the exact shape (taper, circular cross section, etc.) is crucial to the operation of the invention. This exact shape has not been properly disclosed.

### ***Conclusion***

8. The Examiner invites applicant to call for an interview such that the issues presented in this Office Action may be resolved.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri), first friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

sb



**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**



NEW SHEET

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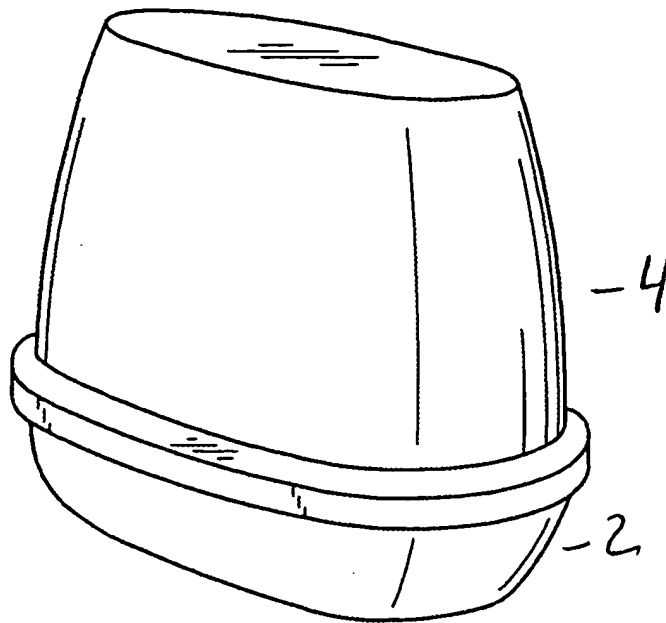


FIG. 3